

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 3965 of 22 November, 2012

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LEGAL NOTICE NO. OF 179 2012.

**FINANCIAL SERVICES (INVESTMENT AND FIDUCIARY  
SERVICES) ACT**

**FINANCIAL SERVICES (CAPITAL ADEQUACY OF INVESTMENT  
FIRMS) (AMENDMENT) REGULATIONS 2012**

In exercise of the powers conferred on me by section 53 of the Financial Services (Investment and Fiduciary Services) Act and in order to transpose into the law of Gibraltar Article 10 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), I have made the following Regulations—

**Title and commencement.**

1. These Regulations may be cited as the Financial Services (Capital Adequacy of Investment Firms) (Amendment) Regulations 2012 and come into operation on the day of publication.

**Amendment of the Financial Services (Capital Adequacy of Investment Firms) Regulations 2007.**

2.(1) The Financial Services (Capital Adequacy of Investment Firms) Regulations 2007 are amended in accordance with the provisions of this regulation.

(2) In regulation 2, after the definition “credit institution” insert the definition—

““EBA” means the European Banking Authority established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a

European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC;”.

(3) At the end of regulation 4 insert the words “and the Minister shall ensure that the EBA and the European Commission are informed accordingly”.

(4) After regulation 18(4) insert the following subregulation–

“(5) Where the Authority waives the application of capital requirements on a consolidated basis provided for in this regulation, it shall notify the European Commission and EBA.”.

(5) After regulation 28(1) insert the following subregulation–

“(1A) The Authority shall notify the European Commission, the European Council and EBA of the procedures established under subregulation (1).”.

(6) Regulation 33 is amended–

(a) in the section heading by inserting the words “and EBA” after the words “other authorities”;

(b) by inserting the following subregulations after subregulation (2)–

“(2A) The Authority shall cooperate with EBA for the purposes of these Regulations and the recast Directive, in accordance with Regulation (EU) No 1093/2010.

(2B) Where EBA makes a request the Authority shall without delay provide it with all the information necessary to enable EBA to carry out its duties under the recast Directive and in accordance with Article 35 of Regulation (EU) No 1093/2010.”.

Dated 22nd November, 2012.

G H LICUDI QC,  
Minister for financial services.

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**EXPLANATORY MEMORANDUM**

These Regulations transpose Article 10 of Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).